

**Testimony of Thomas W. Ude, Jr.
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**Before the Judiciary Committee of the Connecticut General Assembly
March 6, 2009**

**Re: Raised S.B. Bill No. 899, AN ACT IMPLEMENTING THE GUARANTEE OF
EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR
SAME SEX COUPLES**

Lambda Legal supports Raised S.B. Bill No. 899, An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same-Sex Couples.

For many years, the General Assembly has been an important and crucial leader in recognizing and advancing full equality for lesbians and gay men. None of the laws that advanced rights were enacted easily. At each step, there was opposition even to that which many may consider simple and straightforward – as there is today. But it is also true that now, as then, there is strong support for doing what is right.

Lambda Legal Defense and Education Fund, Inc. is a national organization, with members in Connecticut and throughout the United States, dedicated to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation and public policy work. For more than 35 years, Lambda Legal has been advocating for equality for gay men and lesbians throughout the United States, and has been counsel or *amicus* in scores of cases establishing the rights of gay men and lesbians in many areas, including cases in the courts of states throughout the United States on behalf of same-sex couples seeking the right to marry, and cases on behalf of couples seeking respect for and recognition of marriages and other legal relationships that were entered into elsewhere.

Raised Bill No. 899 would further many important objectives while respecting both the unique nature of marriage and the equal protection guarantee of the Connecticut Constitution. My testimony focuses on four of those objectives.

First, this bill addresses the issue of relationship recognition, an issue that continues to present serious and significant problems for many lesbians and gay men who have entered into committed, legally-sanctioned relationships. It has always been the case that the particular rights and benefits of marriage differ somewhat from one state to another, and often differ even further in different countries. But for couples who are of the same sex, that situation is further complicated by the fact that some jurisdictions recognize relationships between people of the same sex as marriages, but others refuse to recognize relationships between people of the same sex only as some status other than marriage. Still other jurisdictions have yet to respect or recognize marriages between two people of the same sex at all. Because very few people stay entirely within the borders of their home states

for their whole lives, recognition of relationships between different states and countries is a significant problem. Sections 1 and 2 provide a strong statement of interpretive intent as to how relationships from elsewhere can be respected here in Connecticut, and provide a framework to facilitate respect for, and recognition of, Connecticut relationships under the different laws of other states and countries. Further, it respects the uniqueness of marriage while simultaneously focusing on the substantive rights and benefits that characterize the different legally-recognized relationships available to couples seeking to protect one another and their families.

Second, Section 7 recognizes, as the court did in *Kerrigan v. Commissioner of Public Health*, 289 Conn. 135, 250-51 (2008), that the marriage of same sex couples will not jeopardize religious freedom, and acknowledges the existing first amendment rights of religious organizations not to perform marriages that cannot be reconciled with their beliefs. At the same time, its brevity and clarity respects the promise that the Connecticut Constitution's equal protection guarantee holds for couples seeking to marry.

Third, Sections 11 and 12 provide that the legal relationships of couples who are currently in civil unions and who become married will reflect the combined duration of that relationship's legal recognition. For couples with children, and for couples for whom, for various reasons, the length of the relationship can be very important. Providing a clear and predictable rule allows them to know their rights with added certainty.

Fourth, Sections 9, 10, and 17 each repeal provisions enacted into law, at various times, in combination with laws that advanced civil rights or provided other important protections. These provisions changed no substantive rights. However, as described by the Supreme Court in *Kerrigan* last fall, these provisions "proclaimed, as a matter of state policy, that same sex relationships are disfavored." 289 Conn. at 204-05. And those provisions made the same statement to lesbians and gay men who are not in relationships. In *Lawrence v. Texas*, the United States Supreme Court struck down consensual sodomy prohibitions as unconstitutional, explaining in part that *those* laws were a declaration that in and of itself was an invitation to subject gay men and lesbians "to discrimination both in the public and in the private spheres;" the court noted that the continued existence of those laws "demean[ed] the lives of homosexual persons." 539 U.S. 558, 575, 123 S.Ct. 2472, 2482 (2003). The continued existence of the laws repealed by Sections 9, 10 and 17 of this Bill similarly demean the existence of gay men and lesbians, and by their repeal, Connecticut will have taken another important step closer to full equality.

Connecticut has a proud history of legislative action to protect civil rights. In addressing these vestiges of discrimination concerning marriage and acting to further this State's equal protection guarantee, this body will continue that long and proud tradition. For all of the foregoing reasons, Lambda Legal urges you to pass Raised Bill No. 899, An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same-Sex Couples.